

[4310-MR-W]

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010-0138).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart B. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. The ICR is titled "30 CFR Part 206, Subpart B, Establishing Oil Value for Royalty Due on Indian Leases."

DATES: Submit written comments on or before (INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER).

ADDRESSES: Submit written comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010-0138), 725 17th Street, N.W., Washington, D.C. 20503. Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our

courier address is Building 85, Room A-614, Denver Federal Center, Denver, Colorado 80225. You may also email your comments to us at mrm.comments@mms.gov. Include the title of the information collection and the OMB Control Number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your email, contact Ms. Gebhardt at (303) 231-3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231-3211, FAX (303) 231-3781, email Sharron.Gebhardt@mms.gov. You may also contact Sharron Gebhardt to obtain a copy at no cost of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: "30 CFR Part 206, Subpart B, Establishing Oil Value for Royalty Due on Indian Leases."

OMB Control Number: 1010-0138.

Bureau Form Number: None.

Abstract: The Department of the Interior (DOI) is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary of the Interior (Secretary) under the Mineral Leasing Act (30 U.S.C. 1923 and the OCS Lands Act (43 U.S.C. 1353) is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws. The Secretary also has an Indian trust responsibility to manage

Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

On December 20, 1995, MMS published an Advance Notice of Proposed Rulemaking (60 FR 65610) regarding valuation of oil from Federal and Indian leases. In the notice, we asked all interested parties to submit and/or comment on alternate methodologies for valuing oil production. Additionally, we asked for comments related to "significant quantities" in valuation determinations.

Although industry generally had no comments due to pending litigation on this issue, many States and Indian organizations generally believed the current system is outdated and a new system based on either the New York Mercantile Exchange (NYMEX) or spot prices would be more appropriate. In response to these concerns, we published a proposed rule on February 12, 1998 (63 FR 7089), revising the current Indian oil valuation regulations. This proposed rule "Establishing Oil Value for Royalty Due on Indian Leases," added more certainty to valuation of oil produced from Indian lands and eliminated any direct reliance on posted prices.

Then, MMS proposed further changes to its proposed rule regarding the valuation, for royalty purposes, of crude oil produced from Indian leases by publishing a supplementary proposed rule on January 5, 2000 (65 FR 403).

This supplementary proposed rule established a new form—Form MMS-4416, Indian Crude Oil Valuation Report, for collecting value and value differential data. OMB approved the use of this proposed Form MMS-4416 and assigned OMB Control Number 1010-0113.

MMS is now requesting OMB to renew its approval for the reporting requirements under the proposed and supplementary proposed rules until a final rule is published. We are also seeking OMB's approval for the current requirements in 30 CFR Part 206, Subpart B, that were inadvertently overlooked. This notice gives the public another opportunity to comment on the reporting requirements in the proposed and supplementary proposed rules and to also comment on the current requirements.

MMS announced in the *Federal Register* on February 12, 2003 (68 FR 7086), the dates, places, and times for workshops on issues related to the existing rules adopted in March 2000 governing the valuation for royalty purposes of crude oil produced from Federal leases. The workshops, held on March 4—6, 2003, addressed, among other things, issues related to calculation of transportation allowances (including the rate of return allowed for calculating actual costs under non-arm's-length transportation arrangements), timing and application of published index prices, and calculation of location and quality differentials under certain circumstances.

Because of the substantive overlap between these issues and issues involved in the proposed rule on Indian oil valuation, and to give persons interested in Indian lease issues an opportunity to participate in the workshops, MMS reopened the comment period (68 FR 7086) for 60 days on the proposed rule on Indian oil valuation so it can include in the record any relevant comments received. MMS will then consider those comments as they might apply to the Indian oil valuation rule.

Frequency of Response: Annually and monthly

Estimated Number and Description of Respondents: 236 Companies paying royalties on oil produced from tribal and allotted Indian leases.

- 225 respondents (proposed and supplementary proposed rules)
- 11 respondents (current regulations)

Estimated Annual Reporting and Recordkeeping “Hour” Burden: 6,980 Hours

- 6,680 hours (proposed and supplementary proposed rules)
- 300 hours (current regulations)

The following chart details the individual components and estimated hour burdens for the proposed rule, supplementary proposed rule, and the current reporting requirements under 30 CFR Part 206, Subpart B. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. Therefore, we consider these to be usual and customary and took that into account in estimating the burden.

**Burden Hour Chart for Proposed and
Supplementary Proposed Reporting Requirements**

Proposed 30 CFR 206, Subpart B	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
Proposed § 206.52	You must determine the value of oil using the method that yields the highest value.	2	2,700	5,400
Proposed § 206.52(d)	On Form MMS-2014, you must initially report and pay the value of production at the higher of the index-based or gross proceeds-based values . . . You must file this report . . . you must submit an amended Form MMS-2014 with the higher value within 30 days after you receive notice from MMS of the major portion value.	Burden covered under OMB Control Number 1010-0140.		
Proposed § 206.53(a) and (b)	On request, you must make available sales and volume data for production you sold, purchased, or obtained from the designated area or from nearby fields or areas . . . You must make this data available to the authorized MMS . . . You must retain all data relevant to the determination of royalty value.	Normal records retention for targeted audit purposes—exempt from the Paperwork Reduction Act.		
Proposed § 206.54	You may ask MMS for guidance in determining value. You may propose a	400	2	800

Proposed 30 CFR 206, Subpart B	Reporting Requirement	Burden Hours per Response	Annual Number of Responses	Annual Burden Hours
	value method to MMS. Submit all available data related to your proposal and any additional information MMS deems necessary.			
Proposed/ Supplementary Proposed § 206.60(b)(2)	You may ask MMS to approve a transportation allowance deduction . . . You must demonstrate that the transportation costs incurred were reasonable, actual, and necessary. Your application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) must contain all relevant supporting documentation . . .	Burden covered under OMB Control Number 1010-0095		
Proposed/ Supplementary Proposed § 206.61 (c)(3) (i), (ii), (iii), and (iv)	If an MMS-calculated differential . . . does not apply to your oil, either due to location or quality differences, you must request MMS to calculate a differential for you. . . After MMS publishes its annual listing of location/quality differentials, you must file your request in writing with MMS for an MMS-calculated differential. You must demonstrate why the published differential does not adequately reflect your circumstances. . . . If you file a request for an MMS-calculated differential within 30 days after MMS publishes its annual listing of location/quality differentials, . . . Send your request to: Minerals Management Service . . .	40	12	480
Proposed/ Supplementary Proposed § 206.61(d)(4)	You must report transportation allowances, location differentials, and quality differentials as separate lines on Form MMS-2014.	Burden covered under OMB Control Number 1010-0140.		
Proposed/ Supplementary Proposed § 206.61(d)(5)	You must submit information on Form MMS-4416 . . . you must file a new form each time you execute a new exchange or sales contract involving the production of oil from an Indian lease.	Burden covered under OMB Control Number 1010-0113.		
		Total	2,714	6,680

Burden Hour Chart for Current Reporting Requirements
in 30 CFR Part 206, Subpart B

Current 30 CFR 206, Subpart B	Reporting or Recordkeeping Requirement	Burden Hours Per Response	Annual Number of Responses	Annual Burden Hours
<i>Valuation Standards</i>				
§ 206.52(e)(1) and (2)	. . . the lessee shall retain all data relevant to the determination of royalty value . . . A lessee shall notify MMS if it has determined value. . . The notification shall be by letter to MMS . . . The letter shall identify the valuation method to be used and contain a brief description of the procedure to be followed.	20	1	20
§ 206.52(g)	The lessee may request a value determination from MMS . . . the lessee shall propose to MMS a value determination method . . . The lessee shall submit all available data relevant to its proposal.	40	1	40
<i>Transportation Allowances</i>				
§ 206.54(b)(2)	Upon request of a lessee, MMS may approve a transportation allowance deduction . . . The lessee must demonstrate that the transportation costs incurred in excess of the limitation . . . were reasonable, actual, and necessary. An application for exception (using Form MMS-4393, Request to Exceed Regulatory Allowance Limitation) shall contain all relevant and support documentation necessary for MMS to make a determination.	Burden covered under OMB Control Number 1010-0095.		
§206.55(a)(1) (i)	. . . the lessee must submit a completed page one of Form MMS-4110 (and Schedule 1), Oil Transportation Allowance Report, . . .	Burden covered under OMB Control Number 1010-0061.		
§ 206.55(a)(2) (i)	. . . no allowance may be taken for the costs of transporting lease production which is not royalty bearing without MMS approval.	40	1	40
§ 206.55(a)(2) (ii)	. . . the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported.	20	1	20

Current 30 CFR 206, Subpart B	Reporting or Recordkeeping Requirement	Burden Hours Per Response	Annual Number of Responses	Annual Burden Hours
§ 206.55(a)(3)	If an arm's-length transportation contract includes both gaseous and liquid products, and the transportation costs attributable to each product cannot be determined from the contract, the lessee shall propose an allocation procedure to MMS . . . The lessee shall submit all available data to support its proposal.	40	1	40
§ 206.55(b)(1)	. . . the lessee must submit a completed Form MMS-4110 . . . A transportation allowance may be claimed retroactively for a period of not more than 3 months prior to the first day of the month that Form MMS-4110 is filed with MMS . . . MMS may direct a lessee to modify its actual transportation allowance deduction.	Burden covered under OMB Control Numbers 1010-0061 and 1010-0140.		
§ 206.55(b)(2)(iv)	After a lessee has elected to use either method for a transportation system, the lessee may not later elect to change to the other alternative without approval of MMS.	20	1	20
§ 206.55(b)(2)(iv)(A)	After an election is made, the lessee may not change methods without MMS approval.	20	1	20
§ 206.55(b)(3)(i)	. . . the lessee may not take an allowance for transporting lease production which is not royalty bearing without MMS approval.	40	1	40
§ 206.55(b)(3)(ii)	. . . the lessee may propose to MMS a cost allocation method on the basis of the values of the products transported.	20	1	20
§ 206.55(b)(4)	Where both gaseous and liquid products are transported through the same transportation system, the lessee shall propose a cost allocation procedure to MMS . . . The lessee shall submit all available data to support its proposal.	20	1	20
§ 206.55(b)(5)	A lessee may apply to MMS for an exception from the requirement that it compute actual costs . . .	20	1	20
§ 206.55(c)(1)(i)	. . . the lessee shall submit page one of the initial Form MMS-4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined, under an arm's-length contract, is reported on Form MMS-2014, Report of Sales and Royalty Remittance.	Burden covered under OMB Control Number 1010-0061.		

Current 30 CFR 206, Subpart B	Reporting or Recordkeeping Requirement	Burden Hours Per Response	Annual Number of Responses	Annual Burden Hours
§ 206.55(c)(1)(iii) and (iv)	... lessees must submit page one of Form MMS-4410 (and Schedule 1) within 3 months after the applicable contract or rate terminates or is modified or amended, ... MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents.	Burden covered under OMB Control Number 1010-0061.		
§ 206.55(c)(2)(i)	... the lessee shall submit an initial Form MMS-4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS-2014. ...	Burden covered under OMB Control Number 1010-0061.		
§ 206.55(c)(2)(iii)	... the lessee shall submit a completed Form 4110 containing the actual costs for the previous reporting period. . . the lessee shall include on Form MMS-4110 its estimated costs for the next calendar year . . . MMS must receive the Form MMS-4110 within 3 months after the end of the previous reporting period . . .	Burden covered under OMB Control Number 1010-0061.		
§ 206.55(c)(2)(iv)	For new transportation facilities or arrangements, the lessee's initial Form MMS-4110 shall include estimates of the allowable oil transportation costs for the applicable period.	Burden covered under OMB Control Number 1010-0061.		
§ 206.55(c)(2)(vi)	Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS-4410.	Burden covered under OMB Control Number 1010-0061.		
§ 206.55(c)(4)	Transportation allowances must be reported as a separate line item on Form MMS-2014	Burden covered under OMB Control Number 1010-0140.		
§ 206.55(e)(2)	For lessees transporting production from Indian leases, the lessee must submit a corrected Form MMS-2014 to reflect actual costs	Burden covered under OMB Control Number 1010-0140.		
		Total	11	300

Estimated Annual Reporting and Recordkeeping “Non-Hour” Cost Burden: We have identified no “non-hour” cost burdens.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor, and a person is not required to respond to, a

collection of information unless it displays a currently valid OMB Control Number.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency “* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.” Agencies must specifically solicit comments to: (a) evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the *Federal Register* on February 28, 2003 (68 FR 9709), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the ADDRESSES section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days.

Therefore, to ensure maximum consideration, OMB should receive public comments by [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Public Comment Policy: We will post all comments in response to this notice on our web site at http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm. We will also make copies of the comments available for public review, including names and

addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request that we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208-7744.

Date

Lucy Querques Denett
*Associate Director for
Minerals Revenue Management*